

Case No. 22-15961

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DONALD J. TRUMP, the Forty-Fifth President of the United States;
LINDA CUADROS; AMERICAN CONSERVATIVE UNION; RAFAEL BARBOSA;
DOMINICK LATELLA; WAYNE ALLYN ROOT; NAOMI WOLF,
Plaintiffs-Appellants,

v.

TWITTER, INC.; JACK DORSEY,
Defendants-Appellees,

and

UNITED STATES OF AMERICA,
Intervenor-Appellee.

*Appeal from the United States District Court for the Northern District of California (San Francisco),
Case No. 3:21-cv-08378-JD · The Honorable James Donato, District Judge*

**APPELLANTS' MOTION FOR JUDICIAL NOTICE
IN SUPPORT OF APPELLANTS' OPENING BRIEF**

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Dominick Latella; Wayne Allyn Root*

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APPELLANTS' MOTION FOR JUDICIAL NOTICE

Pursuant to Federal Rule of Evidence 201 and Circuit Rule 27-1, Plaintiffs-Appellants Donald J. Trump, American Conservative Union, Rafael Barbosa, Linda Cuadros, Dominick Latella, and Wayne Allyn Root ("Plaintiffs") hereby move the Court to take judicial notice of the documents included in the accompanying Exhibits to Appellants' Motion for Judicial Notice and more fully described in the Declarations of Marie L. Fiala, John A. Zadrozny, and Tammy Glenn submitted in support of this motion.

I. The Exhibits Are Judically Noticeable

Under Federal Rule of Evidence 201(b), this Court may judicially notice a fact that is not subject to reasonable dispute because it: (1) is generally known within the trial court's territorial jurisdiction, or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned. Courts, including appellate courts, may take judicial notice of appropriate information at any stage of the proceeding. *See Lowry v. Barnhart*, 329 F.3d 1019, 1024 (9th Cir. 2003); *Bryant v. Carleson*, 444 F.2d 353, 357–58 (9th Cir. 1971); Circuit Advisory Committee Note (7) to Ninth Circuit Rule 27-1. This Court may take judicial notice of Appellants' exhibits for the reasons stated below.

A. Official Government Records

The following exhibits are official federal and state government records.

Facts contained in public records are considered appropriate subjects of judicial notice, including the records and reports of administrative bodies. *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1025 n.2 (9th Cir. 2006); *United States v. Ritchie*, 342 F.3d 903, 909 (9th Cir. 2003). The Court “may take judicial notice of publicly available congressional records, including transcripts of congressional hearings.” *Rojas v. Federal Aviation Admin.*, 927 F.3d 1046, 1051 n.1 (9th Cir. 2019). The Court also may take notice of “official information posted on a governmental website, the accuracy of which [is] undisputed.” *Arizona Libertarian Party v. Reagan*, 798 F.3d 723, 727 n.3 (9th Cir. 2015); *Dudum v. Arntz*, 640 F.3d 1098, 1101 n. 6 (9th Cir. 2011) (same).

- **Exhibits 1–7 and 27** are official prepared statements and excerpts of testimony related to three congressional hearings: (1) Does Section 230’s Sweeping Immunity Enable Big Tech Bad Behavior: Hearing before S. Comm. on Commerce, Science and Transportation, 117th Cong. (Oct. 28, 2020); (2) Breaking the News: Censorship, Suppression, and the 2020 Election: Hearing before S. Comm. on the Judiciary, 116th Cong. (Nov. 17, 2020); and (3) Disinformation Nation: Social Media’s Role in

Promoting Extremism and Misinformation: Hearing before H. Comm. on Energy and Com., 117th Cong. (Mar. 25, 2021).

- **Exhibits 8 and 9** are press briefings issued by the White House on May 5, 2021 and July 15, 2021.
- **Exhibit 10** is a U.S. Surgeon General’s Advisory titled “Confronting Health Misinformation” issued on July 15, 2021.
- **Exhibits 11 and 12** are letters written by members of Congress in their official capacities expressing their concerns regarding specific instances in which federal officials either pressured a social media company to suppress important political information before the 2020 election or coordinated and worked jointly with Defendants and other social media platforms to suppress disfavored information.
- **Exhibit 13** is an official press release issued by the Attorneys General of Missouri and Louisiana on September 1, 2022.
- **Exhibit 28** is a Form 8-K filed by Twitter, Inc. with the Securities and Exchange Commission on April 25, 2022.

B. Official Records from Proceedings in Other Courts

The following exhibits are judicially noticeable records from proceedings in other courts. This Court may take notice of “proceedings in other courts, both within and without the federal judicial system, if those proceedings have a direct

relation to matters at issue.”” *Trigueros v. Adams*, 658 F.3d 983, 987 (9th Cir. 2011) (*quoting U.S. ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) (taking notice of document filed in state court of appeal); *Bryant*, 444 F.2d at 357 (court took judicial notice of proceedings and filings in other courts, including decision of California Supreme Court); *see also Arizona Libertarian Party v. Reagan*, 798 F.3d 723, 727 n.3 (9th Cir. 2015) (judicial notice of official information posted on governmental website is proper); *Dudum v. Arntz*, 640 F.3d 1098, 1101 n. 6 (9th Cir. 2011) (same)).

- **Exhibits 14 and 16** are copies of documents and discovery requests produced and provided by the United States Department of Justice in litigation entitled *State of Missouri, et al., v. Joseph R. Biden, Jr., et al.*, No. 3:22-CV-01213, pending in the U.S. District Court for the Western District of Louisiana. These documents are linked and authenticated on the State of Missouri Attorney General’s official website and have been filed with the court in the above-referenced litigation. *See* Declaration of Tammy Glenn.
- **Exhibit 17** is the complaint filed in *Twitter, Inc., v. Ken Paxton*, No. 3:21-cv-01644, pending in the U.S. District Court for the Northern District of California.

C. Documents Produced by the CDC in Response to FOIA Request

The following exhibits were produced by the Centers for Disease Control and Prevention (“CDC”) in response to a May 4, 2022 Freedom of Information Act (“FOIA”) request propounded by America First Legal in the course of proceedings in *America First Legal Foundation v. Centers for Disease Control and Prevention*, Case No. 22-cv-00978-APM (D.D.C. filed Apr. 8, 2022). *See* Declaration of John A. Zadrozny. These exhibits have a direct relation to matters at issue here because they confirm the plausibility of Plaintiffs’ state action theory, particularly their claim of joint action between Defendants and the government.

These exhibits are official government records that are judicially noticeable pursuant to the authorities cited above. In addition, this Court may take judicial notice of government disclosures made in response to FOIA request. *New York Times Co. v. U.S. Dept. of Justice*, 756 F.3d 100, 110 n.8 (2d Cir. 2014); *In re Santa Fe Natural Tobacco Co. Mktg. & Sales Practices & Prods. Liab. Litig.*, 288 F. Supp. 3d 1087, 1211 (D. N.M. 2017) (“[T]he FOIA disclosure makes the document ‘capable of accurate and ready determination by resort to [a] source[] whose accuracy cannot reasonably be questioned.’”) (brackets in original); *In re American Apparel, Inc. Shareholder Litig.*, 855 F. Supp. 2d 1043, 1064 (C.D. Cal. 2012).

- **Exhibit 15** consists of excerpts from the CDC's production of CDC records in response to a FOIA request propounded by America First Legal on July 16, 2021.

D. Coercive Public Statements by Government Actors

The following public statements by senior government officials threatened Defendants and other social media companies with grave legal consequences if they did not censor disfavored content and speakers, especially former President Trump. Neither Defendants nor the speakers have disputed that these statements were made. These statements are offered for their coercive effect on social media platforms, including Defendants, and not for the truth of the matters asserted therein.

- **Exhibits 18–19 and 22–25** consist of publicly reported statements by then-candidate Joe Biden, Senator Kamala Harris, Speaker of the House Nancy Pelosi, Rep. Cedric Richmond, Rep. Jerrold Nadler, and the White House speaking officially on behalf of President Biden, threatening punishment of social media platforms that don't censor disfavored speech.

E. Documents Showing the Stock Markets' and Voters' Responses to Information in the Public Realm.

This Court may take notice of news articles for the fact that certain information was in the public realm. *Heliotrope Gen., Inc. v. Ford Motor Co.*, 189

F.3d 971, 981 n. 18 (9th Cir. 1999) (“When considering a motion for judgment on the pleadings, this court may consider facts that ‘are contained in materials of which the court may take judicial notice.’ We take judicial notice that the market was aware of the information contained in news articles submitted by the defendants”) (citations omitted); *In re American Apparel*, 855 F.Supp.2d at 1062 (“Taking judicial notice of news reports and press releases is appropriate for show[ing] ‘that the market was aware of the information contained in news articles’”) (citations omitted); *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010) (“Courts may take judicial notice of publications introduced to indicate what was in the public realm at the time”).

- **Exhibits 20** reports on a leading Silicon Valley entrepreneur and venture capital investor’s reaction to the coercive effect of the U.S. Senate hearings identified above.
- **Exhibit 21** reports on a public opinion poll measuring voters’ responses had the information regarding the financial scandal involving President Biden and his son, Hunter Biden—which was censored by Defendants—been available in advance of the 2020 presidential election.

F. Twitter Stock Price History

This Court may take notice of publicly reported stock price history. *Metzler Inv. GMBH v. Corinthian Colleges, Inc.*, 540 F.3d 1049, 1064 n. 7 (9th Cir.2008) (judicial notice of party's reported stock price history was proper).

- **Exhibit 26** shows Defendant Twitter's daily stock prices in October and November, 2020, before and after the October 28 and November 17 Senate hearings referenced above.

II. The Exhibits Are Relevant to Issues in This Case.

The exhibits directly substantiate Plaintiffs' allegation that government actors coerced, encouraged, and acted jointly with Defendants-Appellees ("Defendants") to censor Plaintiffs' protected speech in violation of the First Amendment. These are the central issues in Plaintiffs' appeal from the District Court's dismissal of the First Amendment claim on the ground that Plaintiffs have not plausibly alleged state action. The bulk of the exhibits constitutes newly revealed evidence that strongly supports the plausibility of Plaintiffs' First Amendment claim and that was not available at the time the District Court dismissed Plaintiffs' action.

Exh(s)	Relevance
1–10, 18–19, 22–25, 27	Members of Congress and senior officials in the Executive Branch specifically threatened to repeal Defendants' immunity under Section 230 of the Communications Decency Act, 47 U.S.C. § 230(c), and impose other legal penalties if Defendants did not censor speakers and content disfavored by those officials. Defendants expressly agreed to coordinate and work with the federal government to censor disfavored content on their platform.
11–16	Dozens of senior government officials and the FBI have worked directly, but covertly, with Defendants and other social media companies to identify and censor disfavored content on social media platforms, including the Twitter platform.
17	Defendant Twitter has admitted that a government investigation has a coercive effect on it.
20–21, 26	Investors' and voters' reactions to information in the public realm about government coercion and suppression of disfavored content.
28	Defendant Twitter's market valuation as shown by Agreement and Plan of Merger between Twitter and Elon Musk.

III. Conclusion

For the foregoing reasons, Plaintiffs respectfully request that this Court grant their motion for judicial notice.

Date: November 14, 2022

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s/ Marie L. Fiala
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Plaintiffs-Appellants,

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Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of California
Case No. 3-21-cv-08378-JD
Hon. James Donato, United States District Judge

**DECLARATION OF MARIE L. FIALA IN SUPPORT OF
APPELLANTS' MOTION FOR JUDICIAL NOTICE**

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ALLYN ROOT

I, Marie L. Fiala, hereby declare as follows:

1. I am an attorney at law, duly licensed to practice in the State of California and a member in good standing of the Bar of this Court. I am one of the counsel of record for Plaintiffs-Appellants Donald J. Trump, American Conservative Union, Rafael Barbosa, Linda Cuadros, Dominick Latella, and Wayne Allyn Root in this matter. I make this declaration based on my personal knowledge of the facts set forth herein.

2. In this declaration I reference the Exhibits filed with this Court in support of Appellants' Motion for Judicial Notice.

3. Exhibit 1 is a true and correct copy of testimony given at the following Senate hearing: *Does Section 230's Sweeping Immunity Enable Big Tech Bad Behavior*: Hearing before S. Comm. on Commerce, Science and Transportation, 117th Cong. (Oct. 28, 2020) ("Oct. 28, 2020 Hearing"). This document was downloaded from <https://www.commerce.senate.gov/2020/10/does-section-230-s-sweeping-immunity-enable-big-tech-bad-behavior>.

4. Exhibit 2 is a true and correct copy of the Statement of U.S. Sen. Mark R. Warner on Section 230 Hearing, issued in connection with the Oct. 28, 2020 Hearing. This document was downloaded from <https://www.warner.senate.gov/public/index.cfm/2020/10/statement-of-sen-mark-r-warner-on-facebook-s-decision-to-finally-ban-qanon-from-its-platforms>.

5. Exhibit 3 is a true and correct copy of testimony given at the following Senate hearing: *Breaking the News: Censorship, Suppression, and the 2020 Election*: Hearing before S. Comm. on the Judiciary, 116th Cong. (Nov. 17, 2020). This document was downloaded from

<https://www.judiciary.senate.gov/meetings/breaking-the-news-censorship-suppression-and-the-2020-election>.

6. Exhibit 4 is a true and correct copy of excerpts of testimony given at the following House of Representatives hearing: *Disinformation Nation: Social Media's Role in Promoting Extremism and Misinformation*: Hearing before H. Comm. on Energy and Com., 117th Cong. (Mar. 25, 2021) (“Mar. 25, 2021 Hearing”). This document was downloaded from

<https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=111407> and <http://docs.house.gov/meetings/IF/IF16/20210325/111407/HHRG-117-IF16-Transcript-20210325.pdf>.

7. Exhibit 5 is a true and correct copy of Written Testimony of Twitter CEO Jack Dorsey, given by Defendant-Appellee Jack Dorsey in connection with the Mar. 25, 2021 Hearing. This document was downloaded from

<https://docs.house.gov/meetings/IF/IF16/20210325/111407/HHRG-117-IF16-Wstate-DorseyJ-20210325.pdf>.

8. Exhibit 6 is a true and correct copy of the Opening Statement as Prepared for Delivery of Subcommittee on Health Chair Anna G. Eshoo, issued in connection with the Mar. 25, 2021 Hearing. This document was downloaded from <http://docs.house.gov/meetings/IF/IF16/20210325/111407/HHRG-117-IF16-MState-E000215-20210325.pdf>.

9. Exhibit 7 is a true and correct copy of the February 18, 2021 Press Release titled “E&C Announces Hearing with Tech CEOs on the Misinformation and Disinformation Plaguing Online Platforms,” issued on behalf of the House Committee on Energy & Commerce regarding the Mar. 25, 2021 Hearing. This document was downloaded from

<https://energycommerce.house.gov/newsroom/press-releases/ec-committee-announces-hearing-with-tech-ceos-on-the-misinformation-and>.

10. Exhibit 8 is a true and correct copy of the Press Briefing by White House Press Secretary Jen Psaki and Secretary of Agriculture Tom Vilsack, May 5, 2021. This document was downloaded from <https://www.whitehouse.gov/briefing-room/press-briefings/2021/05/05/press-briefing-by-press-secretary-jen-psaki-and-secretary-of-agriculture-tom-vilsack-may-5-2021/>.

11. Exhibit 9 is a true and correct copy of the Press Briefing by White House Press Secretary Jen Psaki and Surgeon General Dr. Vivek H. Murthy, July 15, 2021. This document was downloaded from

<https://www.whitehouse.gov/briefing-room/press-briefings/2021/07/15/press-briefing- by-press-secretary-jen-psaki-and-surgeon-general-dr-vivek-h-murthy-july-15-2021/>.

12. Exhibit 10 is a true and correct copy of a U.S. Surgeon General's Advisory titled "Confronting Health Misinformation" issued on July 15, 2021. This document was downloaded from

<https://www.hhs.gov/sites/default/files/surgeon-general- misinformation-advisory.pdf>

13. Exhibit 11 is a true and correct copy of a letter written by 25 members of the U.S. House of Representatives addressed to Mr. Mark Zuckerberg, CEO of Meta Platforms, Inc., dated September 1, 2022. This document was downloaded from https://republicans-oversight.house.gov/wp-content/uploads/2022/09/090122_Letter-to-Mark-Zuckerberg.pdf.

14. Exhibit 12 is a true and correct copy of a letter written by Senators Charles E. Grassley and Josh Hawley addressed to The Hon. Alejandro N. Mayorkas, Secretary of the U.S. Department of Homeland Security, dated June 7, 2022. This document was downloaded from

https://www.grassley.senate.gov/imo/media/doc/grassley_hawley_to_deptofhomelandsecuritydisinformationgovernanceboard.pdf

15. Exhibit 13 is a true and correct copy of a September 1, 2022 press release issued by the Attorneys General of Missouri and Louisiana. This document was downloaded from the State of Missouri Attorney General's official website at <https://ago.mo.gov/home/news/2022/09/01/missouri-and-louisiana-attorneys-general-ask-court-to-compel-department-of-justice-to-produce-communications-between-top-officials-and-social-media-companies>.

16. Exhibits 14 and 16 contain true and correct copies of documents and discovery responses produced and provided by the United States Department of Justice in litigation entitled *State of Missouri, et al., v. Joseph R. Biden, Jr., et al.*, No. 3:22-CV-01213, in the U.S. District Court, Western District of Louisiana. These documents are linked on, and were downloaded from, the State of Missouri Attorney General's official website at <https://ago.mo.gov/home/news/2022/09/01/missouri-and-louisiana-attorneys-general-ask-court-to-compel-department-of-justice-to-produce-communications-between-top-officials-and-social-media-companies>. The documents on the State of Missouri Attorney General's website are authenticated in the accompanying Declaration of Tammy Glenn.

17. Plaintiffs in *State of Missouri, et al., v. Joseph R. Biden, Jr., et al.*, No. 3:22-CV-01213 in the U.S. District Court, Western District of Louisiana, also filed the documents and discovery responses included in Exhibits 14 and 16 with that

court. Those documents and discovery responses are included in Docket No. 71 in that case and may be viewed on PACER at

<https://ecf.lawd.uscourts.gov/doc1/08906971802>.

18. Exhibit 15 contains true and correct copies of documents released by the Centers for Disease Control and Prevention in response to requests for disclosures under the Freedom of Information Act submitted by America First Legal on July 16, 2022. Exhibit 15 is authenticated in the accompanying Declaration of John A. Zadrozny.

19. Exhibit 17 is the Complaint filed on March 8, 2021 in *Twitter, Inc., v. Ken Paxton*, No. 3:21-cv-01644-MMC, in the U.S. District Court, Northern District of California. This document was downloaded from PACER and may be viewed at <https://ecf.cand.uscourts.gov/doc1/035020334200>.

20. Exhibit 18 is a true and correct copy of a Tweet dated October 1, 2019 made by then-Senator Kamala Harris using her official Twitter account. This document was downloaded from

<https://twitter.com/kamalaharris/status/1179193225325826050>.

21. Exhibit 19 is a true and correct copy of excerpts from an interview given by then-candidate Joe Biden to THE NEW YORK TIMES on January 17, 2020. This document was downloaded from

<https://www.nytimes.com/interactive/2020/01/17/opinion/joe-biden-nytimes-interview.html>.

22. Exhibit 20 is a true and correct copy of a news article titled “How Big Tech Is Strangling Your Freedom,” published on the website commonsense.com on March 29, 2022. This document was downloaded from

<https://www.commonsense.news/p/how-big-tech-is-strangling-your-freedom>.

23. Exhibit 21 is a true and correct copy of a Special Report titled “The Stealing of the Presidency, 2020,” published on the website newsbusters.org on November 24, 2020. This document was downloaded from

<https://www.newsbusters.org/blogs/nb/rich-noyes/2020/11/24/special-report-stealing-presidency-2020>.

24. Exhibit 22 is a true and correct copy of an article titled “Kamala Harris Wants to Be Your Online Censor-in-Chief,” published in REASON MAGAZINE on May 7, 2019, quoting public statements made by then-Senator Kamala Harris. This document was downloaded from

<https://reason.com/2019/05/07/kamala-harris-promises-to-pursue-online-censorship-as-president/>.

25. Exhibit 23 is a true and correct copy of a news article quoting statements from an interview of Speaker of the House Nancy Pelosi titled “Nancy Pelosi warns tech companies that Section 230 is ‘in jeopardy,’” published in

TECHCRUNCH on April 12, 2019. This document was downloaded from

<https://techcrunch.com/2019/04/12/nancy-pelosi-section-230/>.

26. Exhibit 24 is a true and correct copy of a news article titled “They should be held accountable: ‘White House reviews platforms’ misinformation liability,” published in USA TODAY on July 20, 2021. This document was downloaded from

<https://www.usatoday.com/story/news/politics/2021/07/20/white-house-reviews-section-230-protections-covid-misinformation/8024210002/>.

27. Exhibit 25 is a true and correct copy of Opinion/Commentary titled “Save the Constitution from Big Tech – Congressional threats and inducements make Twitter and Facebook censorship a free-speech violation,” published in THE WALL STREET JOURNAL on January 12, 2021. This document was downloaded from <https://www.wsj.com/articles/save-the-constitution-from- big-tech-11610387105>.

28. Exhibit 26 is a true and correct copy of Defendant Twitter’s daily stock prices in October and November, 2020, as reported in Yahoo/Finance. This document was downloaded from

<https://finance.yahoo.com/quote/TWTR/history?period1=1603238400&period2=1606089600&interval=1d&filter=history&frequency=1d&includeAdjustedClose=true>.

29. Exhibit 27 is a true and correct copy of the Written Testimony of Jack Dorsey, CEO, Twitter, Inc., given in connection with the Oct. 28, 2020 Hearing.

This document was downloaded from

<https://www.commerce.senate.gov/services/files/7A232503-B194-4865-A86B-708465B2E5E2>.

30. Exhibit 28 is a true and correct copy of the Form 8-K filed by Defendant Twitter, Inc. with the Securities and Exchange Commission on April 25, 2022. This document was downloaded from

<https://www.sec.gov/Archives/edgar/data/1418091/000119312522120474/d310843ddefa14a.htm>.

I hereby declare under the laws of the State of California and the United States of America that the foregoing is true and accurate and that this declaration was executed on November 14, 2022, in Orinda, California.

s/ Marie L. Fiala

Marie L. Fiala

No. 22-15961

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

DONALD J. TRUMP, AMERICAN CONSERVATIVE UNION,
RAFAEL BARBOSA, LINDA CUADROS, DOMINICK LATELLA,
WAYNE ALAN ROOT AND NAOMI WOLF,

Plaintiffs-Appellants,

v.

TWITTER, INC., AND JACK DORSEY,

Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of California
Case No. 3-21-cv-08378-JD
Hon. James Donato, United States District Judge

**DECLARATION OF JOHN A. ZADROZNY IN SUPPORT OF PLAINTIFF-
APPELLANTS' MOTION FOR JUDICIAL NOTICE**

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BARBOSA, LINDA CUADROS,
DOMINICK LATELLA, AND WAYNE
ALAN ROOT

I, John A. Zadrozny, hereby declare as follows:

1. I am an attorney at law, duly licensed to practice in the District of Columbia. I am the Deputy Director of Investigations at America First Legal Foundation (“AFL”), a nonprofit legal advocacy organization based in Washington, D.C. I make this declaration based on my personal knowledge of the facts set forth herein.

2. On July 16, 2021, AFL submitted requests for disclosures under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, on the Centers for Disease Control and Prevention (“CDC”) and other federal agencies, requesting documents, records, and communications relating to the Biden Administration’s decision to direct Big Tech companies to censor speech on their platforms.

3. On April 8, 2022, AFL filed a lawsuit in the U.S. District Court for the District of Columbia, *America First Legal Foundation v. Centers for Disease Control and Prevention*, Civ. Action No. 22-978, to compel the CDC’s compliance with FOIA and release of documents in response to AFL’s FOIA request.

4. On July 27, 2022, AFL released a set of documents received in response to its FOIA request.

5. I have reviewed Exhibit 15 to Plaintiff-Appellants’ Motion for Judicial Notice in the above-captioned Ninth Circuit appeal. The documents included in Exhibit 15 are true and correct copies of the documents released by the

CDC in response to AFL's FOIA request and in connection with the lawsuit filed by the AFL Foundation against the CDC.

I hereby declare under the laws of the District of Columbia and the United States of America that the foregoing is true and accurate, and that this declaration was executed on Tuesday, September 27, 2022, in Washington, D.C.

s/ John A. Zadrozny
John A. Zadrozny

No. 22-15961

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

DONALD J. TRUMP, AMERICAN CONSERVATIVE UNION,
RAFAEL BARBOSA, LINDA CUADROS, DOMINICK LATELLA,
WAYNE ALAN ROOT AND NAOMI WOLF,

Plaintiffs-Appellants,

v.

TWITTER, INC., AND JACK DORSEY,

Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of California
Case No. 3-21-cv-08378-JD
Hon. James Donato, United States District Judge

**DECLARATION OF TAMMY GLENN IN SUPPORT OF PLAINTIFF-
APPELLANTS' MOTION FOR JUDICIAL NOTICE**

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DOMINICK LATELLA, AND WAYNE
ALLYN ROOT*

I, Tammy Glenn, hereby declare as follows:

1. I am a paralegal employed by the Missouri Attorney General's Office.

As part of my official duties, I perform paralegal work for the State of Missouri as one of the Plaintiffs in *State of Missouri ex rel. Schmitt, et al. v. Joseph R. Biden, Jr et al.*, Civ. Action No. 3:22-cv-01213-TAD-KDM (W.D. La.) ("Missouri v. Biden"), currently pending in the United States District Court for the Western District of Louisiana.

2. Plaintiffs in *Missouri v. Biden*, including the State of Missouri, have received documentary discovery from the federal-official Defendants in that case. The Missouri Attorney General's Office has publicly linked redacted versions of documents and interrogatory responses produced by the Defendants in *Missouri v. Biden* on the website of the Missouri Attorney General's Office through links available at the following site: <https://ago.mo.gov/home/news/2022/09/01/missouri-and-louisiana-attorneys-general-ask-court-to-compel-department-of-justice-to-produce-communications-between-top-officials-and-social-media-companies>. The documents received and linked on the Missouri Attorney General's website at this site are true and correct copies of documents received directly from the federal Defendants, through their trial counsel at the U.S. Department of Justice, in the discovery obtained in *Missouri v. Biden*.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this October 19, 2022.

/s/ *Tammy Glenn*